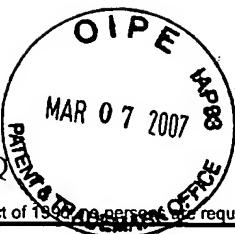


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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 17102/012001	
	Application Number 10/523,906-Conf. #9453	Filed January 28, 2005	
	First Named Inventor Uwe Lasebnick		
	Art Unit 3752	Examiner J. J. Boeckmann	

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

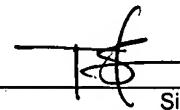
Note: No more than five (5) pages may be provided.

I am the

applicant /inventor.  
 assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b)  
is enclosed. (Form PTO/SB/96)

attorney or agent of record.

Registration number 45,079

  
\_\_\_\_\_  
Signature

Thomas K. Scherer  
Typed or printed name

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34. \_\_\_\_\_

(713) 228-8600

Telephone number

March 7, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.

\*Total of 1 forms are submitted.



Docket No.: 17102/012001  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Uwe Lasebnick

Application No.: 10/523,906

Confirmation No.: 9453

Filed: January 28, 2005

Art Unit: 3752

For: NOZZLE FOR A WASHING SYSTEM FOR  
VEHICLE WINDOWS, AND WASHING UNIT

Examiner: J. J. Boeckmann

MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REASON FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW**

In the Final Office Action dated September 7, 2006, and the subsequent Advisory Actions dated November 27, 2006, January 17, 2007, and February 16, 2007, claims 1-7, 12, 13, and 15-25 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,402,052 (“Murawa”), and claims 8-10 and 14 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Murawa in view of U.S. Patent Application Publication No. 2003/0234303 (“Berning”). Applicant respectfully asserts that the Examiner has mischaracterized limitations of independent claims 1 and 15, and has misinterpreted the teachings of Murawa to read on independent claims 1 and 15, and has improperly maintained the 35 U.S.C. §102(e) rejections, as well as the 35 U.S.C. §103(a) rejections.

**Rejections of Claims 1 and 15 Under 35 U.S.C. §102(e)**

“To anticipate, *every element and limitation of the claimed invention must be found* in a single prior art reference, arranged as in the claim.” *Brown v. 3M*, 265 F.3d 1349, 1351 (Fed. Cir. 2001) (emphasis added). Thus, to form a proper rejection under 35 U.S.C. § 102(e), Murawa must include *each and every element and limitation of the claim* as arranged. In maintaining the above rejection and issuing a final office action, the Applicant respectfully asserts that the Examiner has failed to satisfy the requirements for finding that claims 1-7, 12, 13, and 15-25 are anticipated by Murawa. In particular, the Applicant respectfully asserts that the Examiner has mischaracterized limitations of independent claims 1 and 15, and improperly interpreted the teachings of Murawa to read on the pending claims.

Claims 1 and 15 require, in part, “the valve controls liquid flow through the at least two inlets with a single moving member.” Applicant respectfully asserts that Murawa fails to show or suggest at least this limitation.

Murawa discloses a pressure sensitive windshield washer nozzle. With reference to the nozzle embodiment shown in Figure 3 in Murawa, the apparatus has two movable pressure flow control valves 110, 112, each with movable ball checks 116a, 116b disposed therein. A low pressure flow control valve 110 controls liquid flow through one flow path 122a with a first movable ball check 116a, while a high pressure flow control valve 112 controls liquid flow through the other flow path 122b with a second movable ball check 116b.

The Examiner asserted in the Final Office Action dated September 7, 2006, that Murawa does show one valve, with one inlet (the hose 124) and two outlets (103a and 103b), which controls the flow of liquid through the outlets. The valve of Murawa includes a housing 111 and two valve members, 116a and 116b, and is controlled via the pressure of the liquid in

the hose 124.” In the Advisory Actions dated November 27, 2006, the Examiner further asserts that a single moving member (116a or 116b) “along with another moving member control the flow through the at least two inlets.”

In doing so, the Examiner clearly and explicitly mischaracterized the above limitations of claims 1 and 15. The above limitations require that the valve has *a single moving member which controls liquid flow through at least two inlets*. This is clearly not the case in Murawa, where *each* moving member 116a, 116b controls liquid flow through *only one inlet*.

In the Advisory Actions dated January 17, 2007 and February 16, 2007, the Examiner makes two assertions: first, that “in the present invention, there is not just one single moving member that controls the liquid flow through at least two inlets, but that the spring 34 and the valve member 32 both move in order to control the liquid flow,” and second, that “in the Murawa reference, there is only one single moving valve member (106a or 106b) moving at any given time, depending on the fluid pressure. When low pressure is applied, valve member 106a moves while valve member 106b sits against seat 118b, and when high pressure is applied, valve member 106b moves while valve member 106a sits against valve seat 118a. Therefore depending on the inlet pressure, only one valve member is controlling the flow of the liquid though the two inlets.” We assume that the Examiner is referring to elements 116a and 116b when referring to “moving valve member (106a or 106b),” since 106a and 106b are unmovable fluid ports, while elements 116a and 116b are movable ball checks.

Regarding the Examiner’s first assertion, because the claim uses open ended claim language, aside from the single moving member, it is permissible that other moving members be included. However, the claimed valve is required to have *at least one single moving member which controls liquid flow through at least two inlets*. As shown in Fig. 1, the position

of a single moving member, the valve body 32, clearly controls liquid flow through two inlets. Whether the Examiner considers the spring 34 as another single moving member that controls liquid flow though at least two inlets is irrelevant. In the claimed invention, *a single moving member* is able to control liquid flow through at least two inlets. That is, either valve body 32 or spring 34, when considered separately, could constitute a single moving member that controls liquid flow through at least two inlets.

However, in Murawa, regardless of whether ball checks 116a, 116b move at the same time or not, the left ball check 116a cannot control liquid flow through right flow path 103b, and the right ball check 116b cannot control liquid flow through left flow path 103a. Thus, in contrast to the claimed invention, neither ball check 116a, nor ball check 116b, constitutes a single moving member that controls liquid flow through at least two inlets. Accordingly, Murawa fails to disclose or suggest at least this limitation of the claims.

Regarding the Examiner's second assertion the Examiner asserts that when low pressure is applied, ball check 116a moves while ball check 116b sits against seat 118b, and when high pressure is applied, ball check 116b moves while valve member 116a sits against valve seat 118a. In either scenario, there is not any single moving member able to control liquid flow *through at least two inlets*, as required by the claim. During low pressure, ball check 116b is blocking flow through flow path 103b, and thus the single moving member 116a in that scenario is only able to control fluid flow through flow path 103a, and cannot, in any way, control flow through flow path 103b. Thus, during low pressure, the single moving member 116a is only able to control flow through *a single inlet*. Likewise, during high pressure, ball check 116a is blocking flow through flow path 103a, and thus, the single moving member 116b in that scenario is only able to control fluid flow through flow path 103b, and cannot, in any

way, control flow through flow path 103a. Thus, during high pressure, the single moving member 116b is only able to control flow through *a single inlet*. Therefore, Murawa fails to disclose every limitation of claims 1 and 15. Accordingly, maintenance of the §102(e) rejections is improper. Further, given the fundamental differences between Murawa and the claimed invention, Murawa fails to teach or suggest all of the limitations of claims 1 and 15. Dependent claims are patentable for at least the same reasons. Thus, maintenance of the §103(a) rejections is improper.

### **Conclusion**

In view of the above, the Examiner has clearly mischaracterized limitations of independent claims 1 and 15, has misinterpreted the teachings of Murawa to read on independent claims 1 and 15, and has improperly maintained the 35 U.S.C. §102(e) rejections, as well as the 35 U.S.C. §103(a) rejections. Accordingly, a favorable decision from the panel is respectfully requested. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 17102/012001).

Dated: March 7, 2007

Respectfully submitted,

By 

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